

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-187

May 21, 2002

CENTRAL MAINE POWER COMPANY  
Request for Waiver of Chapter 395,  
Section 9, Allocation of Line Extension  
Costs Among Customers

ORDER GRANTING WAIVER  
REQUEST

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order we grant requests by Central Maine Power Company (CMP) for certain temporary waivers from the applicability of the cost allocation provisions of section 9 of Chapter 395 of the Commission's Rules, which became effective on May 12, 2002. For single-phase lines that are first energized after May 12, 2002, we grant waivers that will allow additional attachers, under the limited circumstances described below, to pay the amount required under CMP's Terms and Conditions that are superseded by the Rule. We also grant CMP a waiver from applying the allocation method of section 9 to polyphase line extensions until December 1, 2002. In addition, this Order describes other actions CMP has stated it intends to take by modifying its Terms and Conditions. The three waivers granted by this Order will apply retroactively from May 12, 2002.

**II. SINGLE-PHASE WAIVERS**

We grant two related waivers to CMP pursuant to its original waiver request, as modified by discussions between CMP and the Commission staff. On April 4, 2002, CMP filed a request for a complete waiver of the allocation provisions of Chapter 395, section 9 for additional customer attachments during the period May 12, 2002-May 31, 2002 to line extensions that are first energized between those dates. CMP did not ask, and we do not grant, a waiver from that portion of the "applicability" provision of section 9(A) stating that section 9 does not apply to line extensions built to serve developments. Thus, from the effective date of the Rule (May 12, 2002), no reallocations (and no payments by new attachers or payments to developers) will occur for a line extension that is first energized on or after May 12 if the line extension was built to serve a development.

Under CMP's original request, new customers who connect to new single-phase line extensions energized between May 12 and May 31 would pay the amount stated in CMP's present Terms and Conditions (the "Development Incentive Payment" or DIP). CMP would transfer that payment to the person or persons who caused the line to be built, as under CMP's current Terms and Conditions. In support of the single-phase waiver request, CMP stated:

In order to implement the Section 9 allocation provisions, CMP will be making substantial changes to its operating procedures and its information technology systems. CMP anticipates that it will take several months to develop and test a new automated system to track line extension allocations as required by the Rule. CMP is developing an interim system to track the necessary information to be used until the full system is operational. CMP requires a short period of time to have the interim system in place and to train CMP personnel on the new allocation procedures in order for CMP's field planners, supervisors, and customer service specialists to explain the new policy to customers.

Under the modified request, CMP will still charge new customers that attach between May 12 and May 31 (to line extensions first energized between those same two dates) pursuant to the allocation system contained in its Terms and Conditions (the DIP), but will pay customers who caused line extensions to be built and initially energized on or after May 12 pursuant to the allocation provisions of the Rule. There normally will be a difference between the two amounts; almost always the amount required by the Rule will be greater than that required by the Terms and Conditions. CMP has stated it will absorb that difference. CMP does not expect that this situation will occur frequently.

On June 1, 2002, the waiver described above will terminate. After that date (except as described in the second waiver below), new attachers to lines first energized after May 12, 2002 will pay the amount required by the allocation provisions of section 9 of the Rule, and those amounts will be distributed among persons who caused line extensions to be built and prior attachers as required by section 9.

The second waiver results from a concern raised by CMP in discussions with staff concerning the fact that over the past few months, it has provided information about the allocation method contained in its Terms and Conditions (the DIP) to persons who had made inquiries about attaching to line extensions. CMP claims that it has kept records of such inquiries. CMP desires to "grandfather" these situations. Thus, when there is a record that a person was provided with such information, and that person connects within six months following receipt of the information to a line extension that is first energized on or after May 12, 2002, that person will pay the DIP to connect to the line rather than the amount calculated under the Rule. As in the case of the first waiver described above, CMP will pay customers who caused lines to be built pursuant to the allocation provisions of the Rule and will absorb the difference between the two amounts. This waiver will terminate no later than November 10, 2002, six months following the last business day (May 10, 2002) on which CMP might have provided information. CMP expects that the number of these situations will also be small.

CMP expects that the vast majority of such inquiries will have come from persons who attach to lines that were first energized prior to May 12, 2002. Those lines are not subject to the Rule, and although CMP intends to apply the Rule's allocation methodology to such lines on a going-forward basis, no waiver is necessary to accomplish the grandfathering desired by CMP. CMP intends to address allocations of

lines energized prior to May 12 in its Terms and Conditions, as described in Part IV below.

### **III. POLYPHASE WAIVER**

CMP has requested a waiver from the applicability of the allocation provisions of section 9 to polyphase line extensions until December 1, 2002. CMP states:

This extension is needed in order for CMP to develop the necessary information technology software for the polyphase line allocations (which will be somewhat different than for single phase lines), and to allow CMP adequate time to test how well the single phase allocation system is working since much of that design will be utilized in the polyphase system design.

CMP's current Terms and Conditions for polyphase line extensions contain no allocation method. Thus, the entity that builds a polyphase line extension pays all of the costs of the line. If other customers later connect to the line, they pay no portion of the original builder's cost and the original builder receives nothing. The waiver would continue the pre-Rule status quo until December 1, 2002. We find that CMP's request for waiver is reasonable.<sup>1</sup>

### **IV. OTHER ANTICIPATED ACTIONS BY CMP**

CMP has informed the Commission staff that it intends to apply the allocation method contained in section 9 of the Rule to single-phase line extensions that were energized between January 1, 2000 and May 11, 2002, i.e., lines that have been subject to CMP's line extension policy in effect since January 1, 2000. CMP will apply the Rule methodology only on a going-forward basis. It will not go back and recalculate prior reallocations (DIPs).<sup>2</sup>

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<sup>1</sup> CMP has indicated orally that it may propose an alternative allocation method for polyphase line extensions that would take into account not only distance (the sole criterion under the Rule) but customer load. If CMP does so, it will need a further waiver.

<sup>2</sup> CMP also will not apply the Rule's methodology to line extensions that were energized prior to January 1, 2000. Those lines are subject to a "support charge" for five years and an allocation method that, although not as precise as that contained in the Rule, has generated no controversy. The policy will expire on December 31, 2004, when the payment obligations for the last of the line extensions subject to that prior policy will expire.

As noted in the Order Adopting Provisional Rule (January 29, 2002), CMP is not required to take this action; the Order stated that the Rule will not apply retroactively to lines energized prior to the effective date of the Rule. Nevertheless, dissatisfaction with CMP's existing allocation methodology led in part to the Legislature's requirement that we establish an allocation method for line extensions. In the Order, we stated that "we [saw] no reason why CMP should not apply the Rule's allocation method – on a going-forward basis – to line extensions [energized after January 1, 2000]."

Because the Rule does not apply to lines energized prior to May 12, no waiver from the Rule is necessary. CMP intends to make the Rule's methodology applicable through changes in its Terms and Conditions. CMP has stated that it will apply the Rule's allocation methodology only for new connections that occur on or after June 1, 2002, to line extensions energized prior to May 12. Thus, if a new customer connects between May 12 and May 31 to a pre-May 12 line extension, the new customer will pay under CMP's present allocation method (the DIP), and the builder of the line will receive that amount. CMP will apply the Rule's methodology only for connections made after June 1, 2002.<sup>3</sup> CMP will make the effective date of the changeover from its present allocation method to the Rule's methodology on June 1, 2002 by simply designating that date as the effective date of the changes to its Terms and Conditions.<sup>4</sup>

For line extensions that are energized prior to May 12, 2002, other aspects of the existing line extension policy in CMP's Terms and Conditions (e.g., the requirement that persons who cause line extensions to be built must pay CMP for the full cost of the line or must contribute a privately-built line) are not affected by the Rule and will remain fully in effect.

As in the case of line extensions that are energized after the effective date of the Rule, CMP is concerned about the fact that, until recently, it has provided prospective line extension attachers who might connect to pre-Rule extensions with information about the allocation method contained in its Terms and Conditions. CMP does not wish to charge those persons the allocation amounts as calculated under the Rule, provided that such persons connect to pre-Rule line extensions within six months following the provision of that information, as documented in CMP's records. However, in the case of persons who were not informed of the DIP, CMP will charge the amount calculated

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<sup>3</sup> As explained below, the Rule's methodology will not apply to all attachments during the period June 1-November 10, 2002.

<sup>4</sup> CMP has not yet filed proposed changes to its Terms and Conditions. As permitted by 35-A M.R.S.A. § 307, CMP may request the change to be effective on notice of less than 30 days. The potential changes constitute an improvement over the current allocation method for lines energized prior to the effective date of the Rule, and that improvement may serve as the basis to find the "good cause" required by section 307 for approval on shorter notice. By this Order we delegate authority to the Director of Technical Analysis to make the "good cause" finding and to approve or decline to suspend proposed changes that are consistent with the description in this Part IV.

under the Rule's methodology, if the attachment occurs after June 1. Grandfathering is not necessary for those persons; they could not have relied on the old policy.

CMP will pay persons who built pre-Rule line extensions the amounts that it receives from the new attachers (either a DIP or an payment calculated under the Rule's methodology), which will depend on the information received (or not received) by the new attachers about the prior method. This approach contrasts with CMP's approach to line extension subject to the Rule because they were energized on or after May 12, where, under some circumstances, CMP will charge the attaching customer the DIP, but pay the person causing the line to be built the amount calculated under the Rule methodology. See Part II above. Thus, if a new attacher were provided information about the DIP, the attacher will pay a DIP (if he or she attached within six months of receiving the information), and the person causing the line to be built will receive only the DIP. If, however, a new attacher had not received information about the DIP (and attaches on or after June 1, 2002), that person will pay the amount calculated under the Rule, and that amount will be distributed to the builder of the line (and to others who paid pursuant to the Rule's methodology) under the methodology of the Rule.

This approach means that persons who built pre-Rule lines will receive disparate treatment depending on the happenstance of whether certain information was provided to persons who might attach between June 1 and November 10, 2002 – six months following the last possible date CMP may have provided any information about the DIP to prospective line extension attachers. The disparate treatment is not unfair to those persons, however. Under their original arrangements with CMP, they only expected to receive DIPs from all new attachers who connected within a 3-year period. Under the revised Terms and Conditions, they will receive payments calculated under the Rule's methodology (which almost always will be higher than a DIP) for some attachments between June 1 and November 10, 2002 and for all attachments thereafter for a period of 20 years.

Accordingly, we

1. WAIVE, retroactive to May 12, 2002, the applicability to Central Maine Power Company of the allocation provisions of section 9 of Chapter 395 for single-phase line extensions for the circumstances and time periods described in Part II of this Order, provided that the non-applicability of the allocation provisions to developments contained in section 9(A) is not suspended;

2. WAIVE, retroactive to May 12, 2002, the applicability to Central Maine Power Company of the allocation provisions of section 9 of Chapter 395 for polyphase line extensions until December 1, 2002; and

3. DELEGATE to the Director of Technical Analysis the authority to approve revised Terms and Conditions that may be filed by Central Maine Power Company that are consistent with the descriptions contained in Part IV above and to find that there is

good cause for such Terms and Conditions to become effective on notice of less than 30 days.

Dated at Augusta, Maine, this 21<sup>st</sup> day of May, 2002.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Nugent  
   Diamond

COMMISSIONER ABSENT:              Welch